

REMARKS

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-54 are pending, with Claims 4-8, 14, 15, 18, 19, 28, 29, 35, 37, 45-49, 51, and 52 withdrawn from consideration.

Amendments to the Claims

Claims 1-3, 9-13, 16, 17, 20-27, 30-34, 36, 38-44, 50, 53, and 54 have been examined with no claims being allowed. Applicants have amended Claims 1, 4-8, 12, 14-16, 18, 19, 22-25, 28-32, 34, 35, 37-43, and 45-54. Applicants respectfully request cancellation of Claims 2, 3, 9, 17, 27, 33, 36, and 44. No new matter has been added by this Amendment.

Claim 1 has been amended to include the limitations of Claims 3 and 9, Claim 16 has been amended to include the limitations of Claim 17, Claim 24 has been amended to include the limitations of Claim 27, Claim 32 has been amended to include the limitations of Claims 33 and 36, and Claim 40 has been amended to include the limitations of Claim 44. Thus Applicants respectfully request cancellation of Claims 2, 3, 9, 17, 27, 33, 36, and 44.

Claims 39 and 53 have also been amended to include the "tri-block copolymer" limitation recited in (now canceled) Claims 3, 17, 27, 36, and 44.

Claims 1, 16, 24, 39, 40, and 53 have been further amended to require that the fluid treatment agent be soluble. Support for this amendment is provided, for example, at page 15, lines 4-14, where it is indicated that the fluid treatment agents utilized in the absorbent material of this invention are in solution.

Claims 1, 2, 4-8, 14-16, 18, 19, 22, 24, 25, 28-32, 37, 40-43, 45-49, 51, 52, and 54 have been amended to include the transitional phrase "comprises" in place of the term "is."

Claim 12 has been amended to depend from Claim 1 rather than from (now canceled) Claim 3.

Claims 14 and 15 have been amended to depend from Claim 1 rather than from (now canceled) Claim 2.

Claim 23 has been amended to depend from Claim 16 rather than from (now canceled) Claim 17.

Claims 35 and 38 have been amended to depend from Claim 32 rather than from (now canceled) Claim 33.

Claims 32 and 34 have been amended to include the term “fluid treatment agent” in place of the term “cell means.” Support for this amendment is provided, for example, at page 6, lines 7-10.

No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims has decreased.

Election/Restrictions

In response to the Examiner’s restriction requirement, Applicants affirm election of Species I, which includes Claims 1-3, 9-13, 16, 17, 20-27, 30-34, 36, 38-44, 50, 53, and 54. Since each of the independent claims has been amended to include a tri-block copolymer (i.e., Species I), Applicants request consideration of all previously withdrawn claims.

Double Patenting Rejection

The rejection of Claims 1-3, 9-13, 16-17, 20-27, 30-34, 36, 38-44, 50, and 53-54 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-44 of U.S. Patent No. 6,350,711 is respectfully traversed in view of the Terminal Disclaimer filed herewith.

Claim Rejections - 35 U.S.C. §112

The rejection of Claims 32-34, 36, and 38 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Applicants have amended Claims 32 and 34 by replacing the term “cell means” with the term “fluid treatment agent,” thus rendering this rejection moot. The term “fluid treatment agent” is used throughout the specification and claims in a manner consistent with the meaning intended by the term “cell means.”

For at least the reasons given above, Applicants respectfully submit that Claims 32, 34, 36, and 38 are not indefinite. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1-3, 12-13, 16-17, 20, 23-25, 27, 31-34, 36, 40-41, 43-44, 50, and 53-54 under 35 U.S.C. §102(b) as being anticipated by Saferstein et al. (U.S. Patent No. 4,616,644) is respectfully traversed.

Saferstein et al. disclose adhesive bandages having a very thin coating of a high molecular weight polyethylene oxide. For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Saferstein et al. do not disclose each and every element or limitation of Applicants' amended Claims 1, 16, 24, 32, 40, and/or 53.

More particularly, Applicants' invention, as recited in Claims 1, 16, 24, 32, 40, and 53, requires a tri-block copolymer that comprises both polyethylene oxide and polypropylene oxide. Saferstein et al. fail to disclose or suggest the combination of polyethylene oxide and polypropylene oxide. Instead, Saferstein et al. disclose polyethylene oxide as a key hemostatic material that may be combined with other water-soluble polymers that serve as a diluent. These “other” polymers may include alkyl celluloses, hydroxyalkyl celluloses, polyvinyl alcohol, polyacrylamide and partially hydrolyzed polyacrylamides, and various naturally-occurring gums such as guar, alginates, xanthan and similar materials (Col. 5, lines 23-44). Propylene oxide is not similar to these materials.

Furthermore, the polyethylene oxide resins in Saferstein et al. require a high molecular weight, namely “from 600,000 to 7,000,000, and even higher” (Col. 4, lines 35-39), whereas Applicants give an example of a suitable tri-block copolymer (containing polyethylene oxide) as PLURONIC® F-98 which has a molecular weight

of about 9,000 (Page 14, line 20 – Page 15, line 3). Thus, the coating in Saferstein et al. is a completely different substance than the tri-block copolymer in the present invention.

For at least the reasons presented above, Applicants respectfully submit that Claims 1, 16, 24, 32, 40, and 53 are not anticipated by Saferstein et al. Because Claims 2, 3, 12, and 13 depend from Claim 1; Claims 17, 20, and 23 depend from Claim 16; Claims 25, 27, and 31 depend from Claim 24; Claims 33, 34, and 36 depend from Claim 32; Claims 41, 43-44, and 50 depend from Claim 40; and Claim 54 depends from Claim 53; these claims are also not anticipated by Saferstein et al. Thus, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

A. Saferstein et al.

The rejection of Claims 9 and 38 under 35 U.S.C. §103(a) as being unpatentable over Saferstein et al. is respectfully traversed, particularly in view of the above Amendment and the following remarks.

In addition to failing to disclose specific pore sizes, as explained above, Saferstein et al. also fail to disclose or suggest the inclusion of propylene oxide in the coatings of the invention. Regardless of the non-specificity of pore sizes, because Saferstein et al. fail to disclose or suggest a tri-block copolymer that comprises both polyethylene oxide and polypropylene oxide, Saferstein et al. thus fail to disclose or suggest Applicants' claimed invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of Saferstein et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

B. Saferstein et al. in view of Weber et al.

The rejection of Claims 10-11, 21-22, 26, 30, 39, and 42 under 35 U.S.C. §103(a) as being unpatentable over Saferstein et al. in view of Weber et al. (U.S. Patent No. 6,221,460) is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Weber et al. disclose a liquid absorbent material that may be used as a liner material for bandages as well as for feminine personal care articles. The utility of this liner material in both types of products is the extent to which Weber et al. disclose any equivalency between these articles.

Saferstein et al. disclose a thin coating applied to a bandage, the purpose of which is to stop the bleeding faster when applied to minor cuts (Abstract). The flow of menses is very much unlike the flow of blood from a minor cut. Furthermore, feminine care products do not attempt to stop the bleeding, but instead are designed to absorb and contain the menses that is expelled. Because of the drastic differences between a minor cut and a menstrual discharge in terms of volume, composition, as well as treatment, it is highly unlikely that a person skilled in the art would consider applying the teachings of Saferstein et al. to feminine care products.

Despite the applicability of Weber et al.'s liner material to both bandages and feminine care products, there is no suggestion to combine the teachings of Saferstein et al. with the teachings of Weber et al. to form a feminine care product. Instead, Saferstein et al. teach away from applying the polyethylene oxide coating to feminine care products as evidenced by the intended effect of the coating, namely "stopping" the bleeding. Even if Saferstein et al. and Weber et al. were combined, the combination would be a bandage including the liner material of Weber et al. and the polyethylene coating of Saferstein et al., and not a feminine care product.

Furthermore, both Saferstein et al. and Weber et al. fail to disclose or suggest a tri-block copolymer that comprises both polyethylene oxide and polypropylene oxide. Thus, any combination of Saferstein et al. and Weber et al. fails to disclose or suggest Applicants' claimed invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of Saferstein et al. in view of Weber et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Melanie I. Rauch", written in a cursive style.

Melanie I. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403